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Calendar No. 737

99TH CONGRESS
2d Session

SENATE

REPORT
99-341

ORIGINAL

DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN INTERESTS IN LANDS TO THE NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY IN THE STATE OF NEW MEXICO

JULY, 25 (legislative day, JULY 21), 1986.—Ordered to be printed

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Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1963]

The Committee on Energy and Natural Resources to which was referred the bill (S. 1963) to direct the Secretary of the Interior to convey certain interests in lands in Socorro County, New Mexico, to the New Mexico Institute of Mining and Technology, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 3, delete "8.501.55" and insert in lieu thereof: "8,501.55".

2. On page 3, line 5 strike all of section 3 and insert in lieu thereof:

> SEC. 3. There are reserved to the United States all minerals that may be found in the lands described in the first section: *Provided, however,* That such lands, except for valid existing rights, shall not be available for location and patent under the U.S. Mining Law, Act of May 10, 1872, 17 Stat. 91, 30 U.S.C. 22, 28, 28b.

PURPOSE OF THE MEASURE

S. 1963, as reported, would direct the Secretary of the Interior to convey to the New Mexico Institute of Mining and Technology in Socorro, New Mexico, at fair market value, and subject to valid ex-

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isting rights, certain interests of the United States in approximately 8,501.55 acres of public land in Socorro County, New Mexico.

BACKGROUND AND NEED

The New Mexico Institute of Mining and Technology is a State-supported school located in Socorro, New Mexico, immediately east of the 8,501.55 acres proposed for transfer in S. 1963. The Institute is interested in competing for contracts to do various types of research, including that associated with advanced weapons systems known as Technical Explosive Research Assistance. Acquisition of the land involved in S. 1963 would allow the school to compete for these research contracts by providing the necessary space for the construction of new research facilities, including weapons testing ranges.

S. 1963 conveys the 8,501 acres of Bureau of Land Management land to the Institute at fair market value. Preliminary estimates by the BLM show that the land is valued at $640,000.

The bill reserves all mineral rights to the Federal Government and requires the Institute to perform and provide the Secretary of the Interior with a survey of the archaeological resources of the area prior to the conveyance. Further, the conveyance is subject to all valid and existing rights.

LEGISLATIVE HISTORY

S. 1963 was introduced on December 17, 1985, by Senator Domenici. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on the bill on March 4, 1986.

At a business meeting on July 16, 1986, the Senate Committee on Energy and Natural Resources ordered S. 1963, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on July 16, 1986, by unanimous vote of a quorum present recommends that the Senate pass S. 1963, as amended.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker	
Mr. Domenici	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans*	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	

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Mr. Metzenbaum*
Mr. Bradley*
Mr. Bingaman*
Mr. Rockefeller*

*Indicates vote by proxy.

COMMITTEE AMENDMENTS

The first amendment is technical and corrects a typographical error in the acreage to be conveyed. The proper figure is 8,501.55 acres.

The second amendment adopted by the Committee would reserve all minerals in the lands described to the United States and would withdraw the lands from the operation of the 1872 Mining Law.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1963, a bill to direct the Secretary of the Interior to convey certain interests in lands in Socorro County, New Mexico, to the New Mexico Institute of Mining and Technology, as ordered reported by the Senate Committee on Energy and Natural Resources, July 16, 1986.

This bill would direct the Secretary of the Interior to convey to the New Mexico Institute of Mining and Technology, at fair market value, certain interests in 8,501 acres of land managed by the Bureau of Land Management. The bill requires, as a condition of the conveyance, that the Institute perform a study of archeological resources of the land and perform mitigation measures as are necessary. Based on information from the Department of Interior, CBO estimates that enactment of the bill would result in receipts to the federal government of about $640,000 and would not affect the budgets of local governments. Purchase of the land and completion of an archeological resource study and mitigation measures would result in a cost to the State of New Mexico of approximately $650,000.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following eval-

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uation of the regulatory impact which would be incurred in carrying out S. 1963. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1963, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 1963 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 8, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1963, a bill "To direct the Secretary of the Interior to convey certain interests in lands in Socorro County, New Mexico, to the New Mexico Institute of Mining and Technology."

We have no objection to enactment of S. 1963 because fair market value would be paid for the lands acquired by the Institute.

S. 1963 would direct the Secretary of the Interior to convey to the New Mexico Institute of Mining and Technology in Socorro, New Mexico, at fair market value, and subject to valid existing rights, all right, title and interest of the United States in approximately 8,501.55 acres of public lands in Socorro County, New Mexico, to be used for research and education. The bill would reserve to the United States all minerals in the lands, together with the right of the United States, its permittees, lessees or grantees to prospect for mine and remove such minerals.

The bill would require the Institute to perform and provide to the Secretary of the Interior, prior to the conveyance, a survey of the archeological resources of the area proposed for conveyance. The survey would be required to identify the mitigation measures, if any, that the Institute would implement, in coordination with the State of New Mexico Historic Preservation Office. The proposed conveyance would be conditioned on the implementation of such measures.

The New Mexico Institute of Mining and Technology is a State-supported school located in Socorro, New Mexico, immediately east of the 8,501.55 acres proposed for transfer in S. 1963. The Institute is interested in completing for contracts to do various types of research, including research dealing with advanced weapons systems known as Technical Explosive Research Assistance. Acquisition of the land involved in S. 1963 would allow the school to compete for these research contracts by providing the necessary space for the construction of new research facilities, including weapons testing ranges.

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Representatives of the New Mexico Institute of Mining and Technology have been in contact with Bureau of Land Management (BLM) representatives in New Mexico for the purpose of obtaining authority to use the proposed expansion area. BLM officials advised the Institute that they could purchase the lands at their fair market value, as provided in section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), or acquired the lands through an exchange of lands between the Federal Government and the State of New Mexico under section 206 of FLPMA. However, the proposed transfer could be accomplished under either of these authorities only if the land-use plan for the area indicates that the lands are suitable for disposal. The current land-use plan for the area does not identify the lands as being suitable for disposal.

The proposed use of the lands for weapons testing could result in the permanent contamination of the land. This precludes BLM from authorizing the use of the land through issuance of permits and leases under FLPMA, because the United States would be responsible for the contaminated land upon the termination of the permit or lease.

The Bureau of Land Management has been advised that the area sought by the Institute has a number of archeological sites. S. 1963 addresses this concern by requiring, as a condition of the conveyance, the implementation of any mitigation measures identified in the archeological survey.

The lands proposed for conveyance under S. 1963 have been identified as being within a known geothermal resource area, and three geothermal leases, comprising approximately 3,000 acres, exist on the property. The rights of the lessees would be protected by the first section of S. 1963.

There are nine mining claims on the lands. These rights would also be protected under the provisions of section 1 of S. 1963, and the persons holding the mining claims could obtain patents to the claims if they are determined to be valid. If S. 1963 is enacted and the lands are transferred to the Institute, there are matters it will have to address in planning for the use of the lands.

Finally, we note that the lands involved in the proposed transfer have a cattle carrying capacity of 974 animal unit months, which are allotted to two individuals under BLM permits that will expire on February 10, 1991. A grazing permit conveys a privilege, not a right. Therefore, the permits could be cancelled at any time. However, the Federal Land Policy and Management Act of 1976 requires two years notice prior to the cancellation of a grazing permit, except in cases of emergency. We do not believe that exception would apply here.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration program.

Sincerely,

J. STEPHEN GRILES,
Assistant Secretary.

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CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1963, as reported.

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